

Message Text

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TAGS: PINT, PN

SUBJECT: GOP DEFENDS SUPPRESSION OF POLITICAL PARTIES

REF: PANAMA 0411

SUMMARY: PANAMA'S ATTORNEY GENERAL ON JANUARY 30 ISSUED A FORMAL OPINION ON THE QUESTION OF POLITICAL PARTIES, ASSERTING THAT THE CABINET DECREE SUPPRESSING THEM IS CONSTITUTIONAL AND THAT THE FORMATION OF POLITICAL PARTIES IS A MATTER SUBJECT TO THE "DISCRETIONARY" POWER OF LEGISLATIVE AUTHORITY. END SUMMARY.

1. AS REPORTED REFTTEL, LIBERAL PARTY PRESIDENT DAVID SAMUDIO ON JANUARY 7 FILED A WRIT BEFORE THE SUPREME COURT, ASKING A JUDGMENT OF THE CONSTITUTIONALITY OF ARTICLE 1 OF CABINET DECREE 58 OF 1969, WHICH SUPPRESSED POLITICAL PARTIES. THE WRIT WAS BASED ON THE ARGUMENT THAT POLITICAL PARTIES WERE NECESSARY TO THE FUNCTIONING OF A REPRESENTATIVE DEMOCRACY AND THAT THE 1972 CONSTITUTION IMPLICITLY GRANTED POLITICAL PARTIES STATUS AS STATE "INSTRUMENTALITIES." IT CITED ALLEGED VIOLATIONS OF ARTICLES 123, 124, 125 AND 273 OF THE CONSTITUTION.

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2. THE SUPREME COURT TRANSFERRED THE WRIT TO THE ATTORNEY GENERAL FOR HIS OPINION, WHICH HE ISSUED ON JANUARY 30 (TEXT IN "MATUTINO" OF JANUARY 31). THE ATTORNEY GENERAL, OLMEDO MIRANDA, CONCLUDED THAT:

-- THE CONSTITUTION CONTAINS PROVISIONS REFERRING

TO POLITICAL PARTIES; THE PROVISIONS ARE NOT FOR "IMMEDIATE ENACTMENT" BUT FOR "FUTURE ENACTMENT;"

-- CABINET DECREE 58 WAS ISSUED BY THE COUNCIL OF THE CABINET, WHICH AT THE TIME HAD LEGISLATIVE POWERS, AND THUS HAS THE FORCE OF LAW; IT ABROGATED PREVIOUS LAW GOVERNING THE EXISTENCE OF POLITICAL PARTIES;

-- THE FORMATION OF POLITICAL PARTIES IS A MATTER OF LEGAL "RESERVATION", SUBJECT TO THE DISCRETIONARY POWER OF LEGISLATIVE AUTHORITY.

BY MEANS OF LENGTHY ARGUMENTS, BASED ON THE PREMISES OF THE LEGALITY AND CONSTITUTIONALITY OF CABINET DECREE 58, HE ALSO CONCLUDED THAT ARTICLE 1 OF CABINET DECREE 58 DID NOT VIOLATE ARTICLES 123, 124, 125 AND 213 OF THE CONSTITUTION.

3. IN REACHING THESE CONCLUSIONS, THE ATTORNEY GENERAL MADE THE FOLLOWING OBSERVATIONS (PARAPHRASED):

-- ARTICLE 123 OF THE CONSTITUTION (WHICH THE WRIT CLAIMED TO BE VIOLATED) INDICATES THAT THE LAW (NOT THE CONSTITUTION) WILL REGULATE THE FORMATION, FUNCTIONING, AND EXISTENCE OF POLITICAL PARTIES. CABINET DECREE 58 DETERMINED THEIR "NONEXISTENCE." THEREFORE, THE SUPPRESSION OF THE PARTIES IS CONSTITUTIONAL, AS THEIR UNCLASSIFIED

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OPERATION IS NOT A MATTER OF THE CONSTITUTION ITSELF BUT OF THE LAW.

-- IT SHOULD BE ACCEPTED THAT THE CURRENT CONSTITUTION REFERS TO POLITICAL PARTIES; BUT THAT REFERENCE HAS NO FUNCTION OTHER THAN TO INDICATE TO THE LAWMAKER THAT THEY CAN ENACT LEGISLATION ON POLITICAL PARTIES WHEN THE GOALS OF THE STATE REQUIRE IT. ONCE THE LAW AUTHORIZES THE EXISTENCE OF THE POLITICAL PARTIES, THEIR EXISTENCE SHOULD BE "ADJUSTED" TO THE ACTUAL STRUCTURE OF THE LEGISLATIVE BODY AND OTHER AGENCIES OF THE STATE.

4. COMMENT: TORRIJOS AND HIS ADVISERS ARE WRESTLING WITH THE PROBLEM OF THE PARTIES. NOTHING IS LIKELY TO HAPPEN ON THIS FRONT UNTIL AFTER THE TREATY PROBLEM IS TAKEN CARE OF. IN ANY EVENT, WE DO NOT EXPECT THE COURTS TO VOID CABINET DECREE 58 UNLESS THE GOVERNMENT IS ALREADY PREPARED TO LEGALIZE PARTIES.
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